

## THE PROCESS FOR ESTABLISHING A LOCAL HISTORIC DISTRICT

It is important that the process for establishing a local historic district be closely followed when creating a local historic district to ensure a solid legal foundation for the district. One of the reasons an existing historic district can be eliminated, if its creation is ever challenged in court, is that it was created using improper procedures. Public Act 169 of 1970, as amended (PA 169) does not stipulate a timeframe for conducting the study. The study process will usually take six months to a year to complete. It is important for the committee to be timely in completing the work. Dragging the process out will result in the community's loss of confidence in and enthusiasm for the project. The study committee should always act in a professional manner. If they are unable to complete the work in a year, at the end of that time they should provide to the local unit of government a written report on the committee's progress to date and include a reasonable timeframe for completion of the work.

### **Step 1: Obtain Resolution from Local Unit of Government to Conduct a Historic District Study**

Any individual or group can approach the legislative body of a local unit of government (city, township, or county) and request that an area be studied to determine its historic significance. If the legislative body votes to approve the request for the study, they adopt a resolution that gives the authority to conduct the study to a historic district study committee. Contact the clerk's office of the local unit of government where the proposed historic district is located to find out the procedure for requesting a resolution for a historic district study.

### **Step 2: Appointment of a Historic District Study Committee**

The legislative body of the local unit of government is responsible for appointing the members of the historic district study committee. PA 169 as amended requires that the study committee "contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation." The individual or group requesting the historic district study may provide the legislative body with the names of potential committee members when the request for a resolution is made since local officials may not be familiar with individuals that have the qualifications to serve on the committee. However, the final decision on membership is up to the local unit of government. If it chooses to do so, a community can appointment a standing committee to study proposed historic districts.

PA 169 does not specify the number of study committee members that should be appointed. This depends on the size and complexity of the district, how much time people have to devote to the project, and the type of expertise needed to complete the study. Typically, study committees range in size from five to seven members. Study committee members do not have to be residents of the proposed district under study or even the local community. For example, if the study required the expertise of a professional on a specific subject, such as railroads, a professor at a university outside of the community could be asked to sit on the committee. It is, however, a good idea to include at least one resident of the proposed district on the study committee so that the neighborhood has input into the official process. Try to include members on the historic district study committee that have a wide range of skills, such as computer technology, photography, planning, research, or knowledge of architectural styles or local history, that will be of use in the collection, analysis, and organization of historic data.

If a community already has a designated local historic district and wishes to establish a new one, it is acceptable to have a representative from the historic district commission serve on a historic district study committee. However, it is **NOT** recommended that the two bodies be made up of exactly the same members. It could be perceived as a conflict of interest if the regulatory body (the historic district commission) and the body making recommendations for a district's establishment (the historic district study committee) are composed of the same individuals.

### **Step 3: The Historic Resource Survey: Photographic Inventory and Historic Research**

PA 169 requires the historic study committee to do a photographic inventory of resources in the proposed district. This inventory is called a historic resource survey and instructions for conducting the survey can be found in the *Manual for Historic and Architectural Surveys in Michigan* (available from the State Historic Preservation Office). Each resource in the district is photographed and the photograph is linked to a data sheet that provides information about the resource and its history. The data sheets are bound together, with a narrative history of the district, to create a historic resource survey report. It is important to remember that the historic resource survey report is **NOT** the historic district study committee report. The survey provides the raw data and background information that is then analyzed and presented in the study committee report. The study committee report should summarize the information found during the survey and highlight specific properties in the district.

The study committee can do the photographic inventory or research work itself or use volunteers. A municipality will often hire a professional consultant to do the work. No matter who collects the data, it is the responsibility of the historic district study committee to monitor the quality of the work to make sure it meets the requirements set forth in Section 399.203 of PA 169.

### **Step 4: Evaluate the Resources in the Proposed District**

Resources in a proposed district are evaluated individually using the criteria established by the Secretary of the Interior for the National Register of Historic Places to determine if they are historic (contributing) or non-historic (non-contributing). These criteria include: association with a significant person or event, significant design and construction, or the ability to yield more information. Evaluation also requires assessing a resource using the seven aspects of integrity established by the Secretary of the Interior: location, design, setting, workmanship, feeling, materials, and association. *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation* discusses the criteria in detail.

The end result of the evaluation will be:

- a list of the historic (contributing) and a list of non-historic (non-contributing) properties in the district by street number and address,
- the proposed boundaries for the district, and
- a significance statement for the district that states which National Register criteria the district meets and why.

There is no set formula or percentage for determining how many individual historic resources a proposed district must have to be determined historically significant. However, the evaluation should show that a strong concentration of resources retaining material integrity exists.

### **Step 5: Prepare a Preliminary Historic District Study Committee Report**

Michigan's *Local Historic Districts Act* cites six minimum requirements for inclusion in the historic district study committee report: 1) charge of the committee, 2) composition of the study committee membership, 3) the name of the historic district studied, 4) a written and visual depiction of the district boundaries, 5) the history of the proposed district, and 6) significance of the district as a whole and individual representative resources in the district. Criteria established by the State Historic Preservation Office in 2002 require that the written boundary description in the report be a legal description and that the report includes a boundary justification statement. The criteria also require the inclusion of streetscape photographs for individual resource districts. A separate chapter on how to write a historic district study committee report is included in this publication.

## Step 6: Transmittal and Review of the Preliminary Study Committee Report

PA 169 requires that the study committee report be officially transmitted (mailed) to the following:

- **Local Planning Body.** The purpose of transmitting the report to the local planning body is to call attention to the fact that there is a potential historic district in an area. This allows planners to take historic resources into consideration when reviewing planning issues or development projects that might affect those resources.
- **State Historic Preservation Office (SHPO).** The SHPO reviews the report to ensure that it fulfills the six requirements set forth in PA 169; is a document that can stand up in court should the establishment of the district ever be challenged; is a well-organized, stand-alone document; and provides a strong significance statement and boundary justification so that readers understand why a property was included in or excluded from the district.
- **The Michigan Historical Commission and the State Historic Preservation Review Board.** The members of these boards may have specialized knowledge of the proposed district and can offer comments about where sources of information can be found. Or, they may question how boundaries were determined. The Michigan Historical Commission meets monthly while the State Historic Preservation Review Board meets three times a year. The SHPO serves as the liaison between the historic district study committee and these advisory boards. One copy of the study committee report should be submitted to the SHPO. The SHPO is responsible for distributing the report to the Commission and Review Board.

None of the reviewing agencies is approving or rejecting the report. They are only offering comments and suggestions, based on their areas of expertise, in an effort to strengthen and improve the report.

## Step 7: Public Hearing

The historic district study committee is required to hold a public hearing to allow the public to comment on the preliminary historic district study committee report. The study committee must wait at least 60 calendar days after the date the preliminary report is transmitted to the four agencies listed above before the hearing can be held. Property owners in the district must be notified of the hearing by first class mail at least 14 days before the date of the hearing. The hearing must be held in accordance with the Open Meetings Act, Public 276 of 1976. See Section 399.203 of Public Act 169 of 1970 as amended for details of the hearing notification process.

Educating the public about the historic significance of the proposed district is a primary responsibility of the historic district study committee. The public hearing should not be the first time the public is informed of the study. The committee should include the public in the study process from the beginning, as soon as the decision is made by the local unit of government to undertake the study. Including the public in the process will help to increase their understanding and acceptance of the district designation.

At the public hearing, in addition to presenting the history of the district the study committee should be prepared to answer questions about what it means to live in a historic district—the benefits and drawbacks, how a historic district commission operates, and the type of work the commission reviews. Committee members should be prepared for both positive and negative responses to establishing a district. It may be helpful to have on hand a representative from an existing historic district commission that can speak with experience about procedures and issues relating to local historic districts.

#### **Step 8: Prepare the Final Historic District Study Committee Report and Draft Historic District Ordinance**

The historic district study committee has up to one year from the date of the public hearing to prepare a final report that incorporates the comments and suggestions from the public and the four agencies to which the report was officially transmitted. During that time, a historic district ordinance must be prepared so that it is ready and available for the local unit of government to adopt should it vote to establish the historic district. The historic district study committee, in conjunction with the attorney for the local unit of government, usually prepares the local historic district ordinance. The SHPO has developed a model historic district ordinance that can be adapted for a community. A local historic district ordinance should follow the language of Public Act 169 as closely as possible to ensure procedures are consistent with the law.

#### **Step 9: Adoption of the Historic District Ordinance and Appointment of the Historic District Commission**

The local unit of government makes the decision to adopt or reject the establishment of the local historic district at the time the final report is presented to them. If the local unit votes to establish a local historic district, then a historic district ordinance must be adopted and a historic district commission must be appointed at the time the district is approved.

The study committee should provide a list of potential historic district commission candidates that meet the qualifications set forth in PA 169 to the local unit of government along with the ordinance.

The process for establishing a local historic district is found in Section 399.203 of Michigan's *Local Historic Districts Act*, Public Act 169 of 1970, as amended.